

From:Bhatti, Mike
Sent:Fri, 18 Feb 2022 18:41:25 -0500
To:Atoui, Philippe;Balaban, Todd;Banks, Sascha;Bradley, Gareth;Dixon, Rob;Foster, Ralph;Gander, Adam;Guilfoyle, Dan;LaBelle, Matthew;Lan, Chuck;Parmar, Sunny;Scott, Jeff;Spencer, Mike;Woo, Richard
Cc:Volk, Damian;Richmond_SMT;Kwok, Edwin;EDIV_DDO;Guay, Martin
Subject:FW: Police Direction for Emergencies Act and Powers
Attachments:Delegation related to Emergency Measures Regulations, Federal Emergencies Act and Powers - Summary - (02-18-22).docx
Importance:High

Federal Emergencies Acts & Powers attached.

Please review & distribute to your membership. Any reason to “compel services” **must** contact Gold Command, C/Supt. John Brewer at [Irrelevant] to confirm the action you wish to take.

Thank you,

Mike

Mike BHATTI, Insp.
Acting Assistant Operations Officer
Geographic Bronze Commander, Lower Mainland District
“E” Division Anti-Mandate Protests
Local: 778-290-2415
Cell: [Irrelevant]
mike.bhatti@rcmp-grc.gc.ca

From: Elliott, Jim <jim.elliott@rcmp-grc.gc.ca>
Sent: February 18, 2022 3:32 PM
To: Bhatti, Mike <mike.bhatti@rcmp-grc.gc.ca>; Blackadar, Andrew <Andrew.Blackadar@rcmp-grc.gc.ca>; Burleigh, Manly <manly.burleigh@rcmp-grc.gc.ca>; Carr, Dale <dale.carr@rcmp-grc.gc.ca>; Choy, Albert <Albert.CHOY@rcmp-grc.gc.ca>; E_DEOC_DOCS [Irrelevant]; EDIV_DDO [Irrelevant]; Edwards, Candice <Candice.EDWARDS@rcmp-grc.gc.ca>; Ferreira, Bert <bert.ferreira@rcmp-grc.gc.ca>; Fishbook, Glen <glen.fishbook@rcmp-grc.gc.ca>; Floyd, Ken <ken.floyd@rcmp-grc.gc.ca>; James Deans - CBSA <james.deans@cbsa-asfc.gc.ca>; Kalicum, Derrick <derrick.kalicum@rcmp-grc.gc.ca>; Kennedy, Neil <neil.kennedy@rcmp-grc.gc.ca>; Ketola, Jeff <jeff.ketola@rcmp-grc.gc.ca>; Luem, Elke <Elke.Luem@rcmp-grc.gc.ca>; Lundie, Mark <mark.lundie@rcmp-grc.gc.ca>; Mackie, Reagen <reagen.mackie@rcmp-grc.gc.ca>; McLeod, James <James.McLeod@rcmp-grc.gc.ca>; Papagiannis, Gus <gus.papagiannis@rcmp-grc.gc.ca>; Pick, Rod <ROD.PICK@rcmp-grc.gc.ca>; Powell, Sean <Sean.Powell@rcmp-grc.gc.ca>; Provost, Quinn <quinn.provost@rcmp-grc.gc.ca>; Richards, Mac <Mac.Richards@rcmp-grc.gc.ca>; Shaw, Laura <laura.shaw@rcmp-grc.gc.ca>; Smith, Perry <Perry.Smith@rcmp-grc.gc.ca>; Sproule, Aaron <Aaron.SPROULE@rcmp-grc.gc.ca>; Uzelac, Jonn <jonn.uzelac@rcmp-grc.gc.ca>; Williams, Kerry

<kerry.williams@rcmp-grc.gc.ca>; Woo, Richard <richard.woo@rcmp-grc.gc.ca>; Gerbrandt, Katie <Katie.Gerbrandt@rcmp-grc.gc.ca>; Tillen, Arone <arone.tillen@rcmp-grc.gc.ca>

Subject: FW: Police Direction for Emergencies Act and Powers

Importance: High

Further to previous.

From: Stubbs, Eric <Eric.Stubbs@rcmp-grc.gc.ca>

Sent: February 18, 2022 3:30 PM

To: Brewer, John <john.brewer@rcmp-grc.gc.ca>; Brown, Warren <Warren.Brown@rcmp-grc.gc.ca>; Haugli, Brad <brad.haugli@rcmp-grc.gc.ca>; Jang, Frank <Frank.Jang@rcmp-grc.gc.ca>; Kirkpatrick, Bruce <Bruce.Kirkpatrick@rcmp-grc.gc.ca>; Levy, Maureen <Maureen.levy@rcmp-grc.gc.ca>; Macdonald, Sheryl-Lynne <sheryl-lynnemacdonald@rcmp-grc.gc.ca>; Sproule, Aaron <Aaron.SPROULE@rcmp-grc.gc.ca>; Taladiar, Lynda <Lynda.Taladiar@rcmp-grc.gc.ca>; Turton, Holly <Holly.Turton@rcmp-grc.gc.ca>

Cc: Carfantan, Ray <Ray.Carfantan@rcmp-grc.gc.ca>; Richards, Mac <Mac.Richards@rcmp-grc.gc.ca>; Edmonds, Brian <Brian.A.Edmonds@rcmp-grc.gc.ca>; Elliott, Jim <jim.elliott@rcmp-grc.gc.ca>; Smith, Perry <Perry.Smith@rcmp-grc.gc.ca>; Floyd, Ken <ken.floyd@rcmp-grc.gc.ca>; Bhayani, Ghalib <ghalib.bhayani@rcmp-grc.gc.ca>

Subject: Police Direction for Emergencies Act and Powers

Importance: High

Good Afternoon,

We've just received direction related to the Emergencies Act (EA) and Emergency Measures Regulations (EMR) and some guidance for police officers. It's a bit confusing and there is a lot of information. Please find attached and below:

- 1) Below are two possible scenarios that were developed by NHQ and DOJ to assist with our authorities under the EMR and CC.
- 2) The attached Word document is a summary of various parts of the EA and EMR. (Thanks to the Province and PSB for completing this document).
- 3) The attached email is in reference to a situation where a police officer has **to COMPEL** a person or company to render an essential service. The RCMP and specifically the Commanding Officer or delegate is the **only police agency** that has the delegation to make this order. As such, **whether you are a member within the RCMP or independent municipal agency, the following steps are to be taken:**
 - Scenario where a police officer needs to compel a person or company to provide a service as per the EMR.
 - **Contact C/Supt. John Brewer at [redacted] to confirm the action you wish to take.**
 - C/Supt. Brewer will complete the draft letter embedded in the email directing the person/company to comply.
 - The completed letter will be sent back for service on the individual.
 - A verbal authorization can be made if urgency is required.
 - **NOTE: All costs related to the individual compelled to provide the service will be covered by Federal dollars. Please retain the invoice.**

Please ensure those working the various protests throughout the province are aware of this information.

Thanks –
Eric

A/Commr. Eric Stubbs
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"E" Division Core Policing
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Mailstop #306
Surrey, BC V3T 6P3
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1. **Scenario 1 – Come across a trucker who refuses to move. What are the next steps – Arrest, tow and seize.**
What are the authorities for arrest – EA/CR. Co?
What are the release authorities? UTA/PTA with conditions?

Under s.34(2) of the *Interpretation Act*, all the provisions of the *Criminal Code* relating to indictable and summary offences respectively apply to indictable and summary offences created by the EMRs. Accordingly, *Criminal Code* warrantless search and seizure provisions and procedures (e.g. s.487.11), arrest (s.495(1)), release (s.498 and following), and charging (s.504 and following) apply for offences under the EMRs. Any *Criminal Code* procedures undertaken for the purposes of the EMRs must be carried out in a manner that complies with the *Charter*. Importantly, where these powers include an evidentiary standard (i.e. reasonable grounds for search, seizure, arrest, release, charge, etc.) or require exigent circumstances, these standards must be met by evidence in the particular circumstances. Because they are *Charter* standards, these requirements do not change under the *Emergencies Act* or EMRs. These are the same discretionary powers and still require the individualize analysis of the subject's particular circumstances to survive *Charter* scrutiny.

In other words, members in the field enforcing the EMRs should exercise their *Criminal Code* powers in the normal manner, according to ordinary procedure.

What are the authorities to tow?

What are the authorities to compel the tow truck Co?

Subsection 7 (1) of the EMRs provides:

Any person must make available and render the essential goods and services requested by the Minister of Public Safety and Emergency Preparedness, the Commissioner of the Royal Canadian Mounted Police or a person acting on their behalf for the removal, towing and storage of any vehicle, equipment, structure or other object that is part of a blockade.

Subsection 7(1) authorizes the Minister of Public Safety and Emergency Preparedness, the Commissioner of the RCMP, or a person acting on their behalf to request a person to provide goods or render services that are essential for removal, towing, and storage of vehicles, equipment, structures or other obstructions that are part of a blockade.

What happens if the tow truck Co refuses to cooperate?

What happens if the tow truck Co agrees but the drivers refuse?

A person requested under s.7(1) of the EMRs is required to provide the requested service. Subsection 8 creates an obligation for any person receiving a request under subsection 7(1) to provide the requested essential good or service immediately and to continue to provide that essential good or service until the earliest of a) a date specified in the written or verbal request; b) expiry or revocation of the declaration of the public order emergency; or c) the day the EMRs are repealed.

Failure to provide the requested essential service immediately or for as long as required is an offence under s.10(2) of the EMR. Companies or operators who refuse to comply violate the EMRs and should be dealt with accordingly.

What does police do with the seized vehicle?

Requests under s.7(1) of the EMRs may be for “removal, towing and storage”. Appropriate requests should be made to account for storage of seized vehicles.

Who pays for storage?

Persons rendering goods or services in compliance with a request under s.7(1) of the EMRs are entitled to reasonable compensation from Canada in accordance with section 9 of the EMRs.

Who covers any damage when stored?

Subsection 9(2) of the EMRs provides for applications for compensation from Canada for loss, injury or damage as a result of anything done or purported to be done under the EMRs. Compensation is available in accordance with the Part V of the *Emergencies Act*.

2. Scenario 2 – An officer comes across a 10 year old child in a truck?

What is the offence the parents are sited for?

If the child is participating in an unlawful assembly as defined by s.2(1) of the EMRs, then s.2(2) and s.4(2) may apply, depending on the available evidence that the parent caused the child's attendance and/or participation.

Subsection 2(2) of the EMRs provides:

2(2) A person must not cause a person under the age of eighteen years to participate in an assembly referred to in subsection (1).

Subsection 2(2) prohibits anyone from causing a person under the age of 18 to participate in an assembly, as defined under s.2(1) of the EMRs. A contravention is an offence under subsection 10(2).

Causing a person under 18 years of age to participate in a public assembly that has already in the present led to, or may reasonably in the future be expected to lead to, a breach of the peace by reason of any of the three subordinate paragraphs is unlawful and constitutes an offence under subsection 10(2).

If the child is merely present at the site of an unlawful assembly as defined by s.2(1) EMRs, then only s.4(2) applies, depending on the available evidence that the parent caused the child to attend the unlawful assembly area.

Subsection 4(2) of the EMRs provides:

4(2) A person must not cause a person under the age of eighteen years to travel to or within 500 metres of an area where an assembly referred to in subsection 2(1) is taking place.

Subsection 4(2) prohibits any person from causing a person under the age of 18 years to travel to any area where an unlawful assembly is taking place, is reasonably expected to take place, or within a 500 metre radius of any such area. A contravention is an offence under subsection 10(2).

Notably, s.4(2) does not prohibit causing a person under the age of 18 years to travel *from* such places, which allows for any person causing a minor to attend unlawful assemblies to leave assembly sites with the minor, notwithstanding that their causing the minor to attend and their participation in the unlawful assembly constitute offences under s.10(2) of the EMRs.

Can the officer have social services attend to apprehend the child?

Only peace officers as defined by the s.1 of the EMRs may exercise the powers granted under those regulations. Therefore, unless they are peace officers, provincial "social services" agencies cannot apprehend the child under any EMR authority. The ability of these agencies to take custody of children will depend on their respective provincial authorities. We recommend discussion with these agencies as to the available authorities.

How do you compel the parents to Court?

Subsections 2(2) and 4(2) EMR offences target the custodial parent. Attendance at court may be compelled through the normal Criminal Code means.